

From: bgbergmann@aep.com@inetgw
To: Microsoft ATR,RFC-822=attorney.general%po.state.ct...
Date: 1/2/02 10:38am
Subject: Proposed Microsoft settlement harms children and continues Microsoft's Monopoly

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Proposed Microsoft settlement harms children and continues Microsoft's Monopoly

I agree with the spirit of the following and would refuse to accept the settlement if I were a plaintiff. As a professional computer user and United States citizen, I urge you to do what you can to make sure that the settlement is not made in its current form. Thank you.

Open K-12 Petition Letter

To: Plaintiffs in the Nationwide Settlement Class Action Suit filling against Microsoft's Anti-trust practices, MDL Docket No. 1332

From: The 1245 Petition Signers of the Open K-12 Petition Drive project

Dear Plaintiff,

We, the 1245 signers of this letter are petitioning you to reconsider your decision, made on behalf of your attorneys representing you in your class action antitrust suit against Microsoft, to settle your suit with Microsoft. The reason being is that we feel the current conditions of the settlement to be unjust, not only to you, but to the software industry which provides software products and services to the K-12 school system.

The reason why you have joined this class action suit filed against Microsoft is because of Microsoft's antitrust behavior which has caused you damages you are seeking to remediate in court. The settlement you are about to enter into with Microsoft will in effect shutdown competition in the software industry which serves the K-12 school program. This outcome, that of cutting of avenues of competition, is precisely what you are fighting against in your suit against Microsoft.

By entering into this current settlement with Microsoft, the following actions will occur.

You will dismiss all your charges against Microsoft, and agree never to pursue them again.

In return, Microsoft will spend upwards of \$500 million dollars in cash to promote Microsoft software products and services, and training on how to use these Microsoft products and services, in the nations "underprivileged" K-12 (kindergarten through high school) schools over a period of 5 years. \$100 million of this is a 1 for 2 matching fund raising program. (i.e. for every \$2 dollars raised through fund raising efforts, Microsoft will donate \$1 dollar, up to \$100 million dollars.) If no further funds are raised through private means, then the sum total would be \$400 million dollars over 5 years.

Microsoft will subsidize the purchase of up to 200,000 refurbished personal computers, by paying for 1/3 of the cost for desktop systems, and 1/2 the cost of laptops. These PCs must be purchased through Microsoft certified refurbished PC dealers. Microsoft will provide software for these systems in the form of several hundred thousand licenses for various different Microsoft software products. These will range from operating system software, to office productivity software, to compilers.

Microsoft is given the right to deny any wrong doing or admission of any guilt in your case you filed against Microsoft.

The fact that Microsoft is spending money in this educational program for the underprivileged K-12 schools in return for you dropping your charges will not be considered an admission of guilt or any wrong doing which you state in your case.

All material which you brought forward as evidence in your civil suit against Microsoft will either be destroyed or placed in

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custody of the attorneys representing you and/or Microsoft and labeled as confidential. This evidence which you brought against Microsoft will never be used in court in any other cases brought against Microsoft.

Copies of any legal material written by your attorneys in regards to this case will be kept by them under confidentiality and thus will never be used in future cases against Microsoft.

We, the 1245 signers of this petition, would like to inform you that we feel this settlement to be unfair in that the final outcome of the settlement will be a major promotion of the use of Microsoft software in the nations underprivileged K-12 schools. This will be done in the following way.

A "Foundation" will be established which will receive the funds of the settlement. This foundation will be governed by a board, made up of 5 members. Two of these members will be appointed by Microsoft, two will be appointed by the attorneys representing you, and one will be appointed by a unanimous vote of the first 4 board members.

The "Foundation" will create an "Education Council" which will take charge of helping the board spend its funds. The members of the "Education Council" will be appointed by the board members of the "Foundation".

Among other responsibilities, the "Education Council", will be to educate the K-12 schools on how to spend the money they receive from the settlement. Included in this education program will be training material, curriculum materials, and training on curriculum integration, provided to the teachers of these K-12 schools. Section IV.d(d) of the settlement stipulates that the "Education Council" must consult with Microsoft on which training and curriculum material will be used as well as how to integrate this training material with the curriculum.

Furthermore Microsoft will create a Microsoft certified refurbished PC seller, and funds from this settlement can only be spent on computers bought from these Microsoft certified refurbished PC sellers.

In other words, Microsoft will setup a legal structure, though its "Foundation" and "Education Council" to ensure the funds are spent on promoting the use of Microsoft software in these underprivileged K-12 schools. Microsoft is also setting up a training and education program to train the teachers how to use Microsoft's software product under the control and guidance of Microsoft. Finally, Microsoft is making sure the schools spend the settlement funds on purchasing used personal computers which are configured to run Microsoft software. There are other details in the settlement which further promote the use of Microsoft software products, but what's listed above makes up the foundation of Microsoft's K-12 education program.

From these facts, we, the 1245 signers of this petition, recognize Microsoft's efforts to use this settlement to train teachers and students on how to use Microsoft software. We also recognize that the ultimate goal of this settlement is to further expand Microsoft's customer base through this aggressive training program aimed at the children of our underprivileged K-12 schools. We find this kind of targeted training program to be ill suited to be used as a settlement agreement for charges of antitrust behavior brought against Microsoft.

We, the 1245 signers of this petition, would like for you to take one of two actions.

1. Contact your attorney, and ask him to change the conditions of the settlement. The settlement we propose is to have Microsoft donate cash grants to the underprivileged K-12 schools which were

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targeted in the original settlement. The size of the individual grants should be in proportion to the number of students enrolled in the school. The schools should then be directed to spend the money on computer hardware, software, networking infrastructure and Internet connection bandwidth for systems used by the teachers and students, as they best see fit for themselves. We emphasize that these funds be restricted to upgrading the IT infrastructure just mentioned, used directly in the classroom environment. These would be upgrades to system used in general class rooms, libraries, science labs, computer clubs or which ever other teaching forum the school has developed for the teaching of their students. The role of the Foundation, as created in the settlement agreement, should expend its efforts to ensure this funding policy be enforced.

Furthermore, in order to ensure that Microsoft has no part in directing how the settlement funds be spent, the Foundation created to manage the settlement funds should be made up of people from our leading science and education institutions. Examples of the people who should be sought to sit on the blue ribbon board of this foundation would be the head of the National Science Foundation, the head of the National Academy of Sciences, the Presidential Science Adviser, directors of our national laboratories, presidents of our renown universities, heads of teachers unions, the Secretary of Education, the Secretary of Commerce or other people who have great knowledge of both education, its advancement and the free and open market system upon which the strength of this country is founded. The task of forming a search committee for these board members should be given to the Honorable Judge Motz or someone to which he delegates this task.

2. Or opt out of the settlement. Section 5 of the settlement states that you have a right to opt out of the settlement and preserve your right to pursue your claim against Microsoft. To do this, you need to send a letter to "The Settlement Notice Administrator", indicating your wish to do so. You have 150 days to exercise your "opt-out" options after entry of the Court's order for preliminary approval of the settlement.

We thank you for reading our petition and listening to our concerns regarding the settlement you are about to enter with Microsoft. We, the 1245 signers of this petition, are very encouraged that Microsoft is willing to fund so handsomely a computer education program for our underprivileged schools. But we also want to make sure that it is done in a fair manner that promotes an open market place for software products and that this settlement not be used to exclude other software vendors from participating in this education program. We also recognize that in order for our country to keep its role as a global leader, we need to ensure our children are properly educated using the latest technology tools. We must also ensure that the tools which they use are ones which they have chosen freely.